

FILED

DEC 21 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

ANTHONY SCOTT,

Plaintiff,

vs.

STEVE HALLAM, SETH FOSTER,
DAVID FIREBAUGH, and
KENNETH TUSS.,

Defendants.

CV 18-89-BLG-DLC-JCL

ORDER

On September 28th, 2018 United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations (Doc. 52) recommending that the Court deny Plaintiff Anthony Scott's ("Scott") Motion for Summary Judgment on his excessive force claims against Defendants Hallam, Foster, Firebaugh, and Tuss (Doc. 45) and granting Defendants' Cross Motion for Summary Judgment (Doc. 25). No party objects, and so the Court will review for clear error. 28 U.S.C. § 636(b)(1)(C); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistakes has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations

omitted).

Having reviewed the Findings and Recommendations, the Court finds no clear error in Judge Lynch's recommendation that Scott's motion should be denied and Defendants' motion should be granted because Scott's claim of excessive force arising out of an incident on January 17, 2018 where he was handcuffed too tightly did not involve any of the named Defendants. For this reason, Scott's various motions seeking relief and summary judgment (Docs. 36, 40, 41, 45) are denied. Scott has already been permitted to amend his complaint to name those persons involved in the incident.

Accordingly, there being no clear error in Judge Lynch's Findings and Recommendations, IT IS ORDERED that:

- (1) Judge Lynch's Findings and Recommendations (Doc. 52) are ADOPTED IN FULL.
- (2) Defendants' Cross Motion for Summary Judgment (Doc. 25) is GRANTED.
- (3) Scott's Motion to Grant Relief (Doc. 36) to the extent it seeks relief based upon his claim of excessive force against Defendants Hallam, Foster, Firebaugh, and Tuss is DISMISSED.
- (4) Scott's Motion—Statement of Undisputed Facts (Doc. 40) to the extent it seeks relief based upon his claim of excessive force against Defendants Hallam, Foster, Firebaugh, and Tuss is DISMISSED.
- (5) Scott's September 11, 2018 Motion for Summary Judgment (Doc. 41) to the extent it seeks relief based upon his claim of excessive force against Defendants Hallam, Foster, Firebaugh, and Tuss is DISMISSED.

- (6) Scott's September 18, 2018 Motion for Summary Judgment (Doc. 45) to the extent it seeks relief based upon his claim of excessive force against Defendants Hallam, Foster, Firebaugh, and Tuss is DIMISSED.

DATED this 21st day of December, 2018.



Dana L. Christensen, Chief Judge
United States District Court